## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CASE NO. 3:22-CV-271-KDB-DCK

THOMAS D. GRAHAM,	)
Plaintiff,	)
<b>v.</b>	) ORDER
CAROLINA BLANKETS INC.,	)
Defendant.	)
	)

**THIS MATTER IS BEFORE THE COURT** on "Defendant's Motion To Dismiss Plaintiff's Complaint" (Document No. 3) filed July 14, 2022, and *pro se* Plaintiff's "Motion To Compel To Discovery And Response To Strike Defendants Motion To Dismiss..." (Document No. 6) filed July 28, 2022. These motions has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate.

Having carefully considered the motions and the record, and in consultation with the Honorable Kenneth D. Bell's chambers, the undersigned will deny the motions, without prejudice.

As an initial matter, the Court observes that the parties have failed to comply with the "Standing Order Requiring An Initial Settlement Conference In Civil Cases Assigned To The Honorable Kenneth D. Bell," 5:19-MC-005-KDB, which was linked to the docket of this case on June 17, 2022. In pertinent part, that Order requires "that the parties participate in a settlement conference **prior to the filing of an Answer or other response (such as motion to dismiss under FRCP Rule 12)** to establish an early opportunity for the parties to resolve the action." 5:19-MC-005-KDB, (emphasis added). To date, no "Certificate Of Settlement Conference" has been filed. Id.

Based on the foregoing, Judge Bell has directed that "Defendant's Motion To Dismiss..." should be administratively denied, without prejudice to being re-filed at a later date, after the parties have conducted an Initial Settlement Conference, and after *pro se* Plaintiff has had an opportunity to file an Amended Complaint, if necessary.

In addition, the undersigned notes that *pro se* Plaintiff's filing appears to combine a response to the pending motion to dismiss with a motion to compel. (Document No. 6). According to the Local Rules of this Court, "[m]otions shall not be included in responsive briefs. Each motion must be set forth as a separately filed pleading." LCvR 7.1 (2).

To the extent *pro se* Plaintiff seeks to compel discovery, such request is also premature pursuant to the Local Rules.

The parties may engage in consensual discovery at any time. However, Court-enforceable discovery does not commence until issue have joined and a Scheduling Order has been entered...

## LCvR 16.1 (f)

Based on the foregoing, the Court expects the parties to promptly conduct an Initial Settlement Conference in good faith. If that conference leads to an impasse, *pro se* Plaintiff may file an Amended Complaint.

IT IS, THEREFORE, ORDERED that "Defendant's Motion To Dismiss Plaintiff's Complaint" (Document No. 3) is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that *pro se* Plaintiff's "Motion To Compel To Discovery And Response To Strike Defendants Motion To Dismiss..." (Document No. 6) is **DENIED** WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the parties shall conduct an Initial Settlement Conference and file a "Certificate Of Settlement Conference" by August 12, 2022.

IT IS FURTHER ORDERED that if the parties do not reach an early settlement, *pro se*Plaintiff may file an Amended Complaint on or before **August 19, 2022**.

## SO ORDERED.

Signed: August 1, 2022

David C. Keesler

United States Magistrate Judge